

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:

ROBERT JAMES STROPLE,

Debtor(s)

Case No: B-0982267 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtor's plan pursuant to 11 U.S.C. §1325(b) and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on December 18, 2009, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On December 18, 2009, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtor proposes a monthly plan payment of \$368.00 for a period of 60 months. The estimated return to general unsecured creditors is zero percent (0%). The Debtor lists approximately \$307,106.00 of general unsecured debt consisting of credit card debt and a foreclosure deficiency with BB&T.
5. The Debtor has filed with the petition a Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, known as Official Form B22C ("Form B22C"). The Debtor lists current monthly income ("CMI") in Form B22C of approximately \$12,032.53.
6. Because the Debtor's CMI does exceed the median income figure for a family of the same size in North Carolina, the Debtor's reasonable and necessary expenses are calculated on Form B22C pursuant to 11 U.S.C. §1325(b)(3).
7. The Trustee objects to confirmation of the Debtor's plan in that the Debtor is not devoting all of his projected disposable income to fund the plan pursuant to 11 U.S.C. §1325(b). The Debtor has taken a deduction on line #47 of Form B22C

for payments to Nissan Motor Acceptance Corp. ("Nissan") on a 2007 Nissan Murano ("the automobile"). Nissan has filed a claim showing that the automobile is owned by a non-filing party, Pamela Brown Dixon. Because the debt to Nissan is not secured by an interest in property that the Debtor owns, the deduction is not permitted on line #47 and should be disallowed. Additionally, the Debtor has listed a deduction on line #45 for charitable contributions in the amount of \$10.00 per month. The Debtor has provided the Trustee with his 2008 tax returns that show no charitable contributions for the entire year; therefore, the deduction on line #45 should be disallowed.

8. The Trustee objects to confirmation of the Debtor's plan in that the plan does not meet the requirements of 11 U.S.C. §1325(a)(4) ("the liquidation test"). Currently, the plan provides for \$11,518.00 to unsecured creditors, including priority and administrative claims, due to the liquidated value of the estate. The Trustee has filed an Objection to Debtor's Claim of Exemptions on the basis that the Debtor does not get to exempt \$9,953.73 in a savings account as wages necessary for the support of the household under N.C.G.S. §1-362. If the objection is sustained, the Debtor shall be required to increase the amount payable to unsecured claims to meet the requirements of the liquidation test for confirmation.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §§1325(b) and 1325(a)(4), and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. For such other and further relief as the Court may deem just or proper.

This the 16th day of March, 2010.

s/Benjamin E. Lovell

Benjamin E. Lovell

Attorney for the Trustee

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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Robert J. Strople, 3809 Hillgrand Dr., Durham, NC 27705, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 16th day of March, 2010.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee